

## Consumer Product Safety Commission

## § 1107.2

(a) Costs for the acquisition of any interest in land or buildings;

(b) Costs for the payment of items in excess of the participant's actual cost; and

(c) Costs determined not to be allowable under generally accepted accounting principles and practices or part 1-15, Federal Procurement Regulations (41 CFR part 1-15).

### § 1105.14 Audit and examination.

The Commission and the Comptroller General of the United States, or their duly authorized representatives, shall have access for the purpose of audit and examination to any pertinent books, documents, papers and records of a participant receiving compensation under this section. The Commission may establish additional guidelines for accounting, recordkeeping, and other administrative procedures with which participants must comply as a condition of receiving a contribution.

## PART 1107—TESTING AND LABELING PERTAINING TO PRODUCT CERTIFICATION

### Subpart A—General Provisions

Sec.

1107.1 Purpose.

1107.2 Definitions.

### Subpart B [Reserved]

### Subpart C—Certification of Children's Products

1107.20 General requirements.

1107.21 Periodic testing.

1107.23 Material change.

1107.24 Undue influence.

1107.26 Recordkeeping.

### Subpart D—Consumer Product Labeling Program

1107.30 Labeling consumer products to indicate that the certification requirements of section 14 of the CPSA have been met.

AUTHORITY: 15 U.S.C. 2063, Sec. 3, 102 Pub. L. 110-314, 122 Stat. 3016, 3017, 3022.

SOURCE: 76 FR 69541, Nov. 8, 2011, unless otherwise noted.

## Subpart A—General Provisions

### § 1107.1 Purpose.

This part establishes the protocols and standards for ensuring continued testing of children's products periodically and when there has been a material change in the product's design or manufacturing process and safeguarding against the exercise of undue influence by a manufacturer on a third party conformity assessment body. It also establishes a program for labeling of consumer products to indicate that the certification requirements have been met pursuant to sections 14(a)(2) and (i)(2)(B) of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2063(a)(2) and (i)(2)(B)).

### § 1107.2 Definitions.

Unless otherwise stated, the definitions of the Consumer Product Safety Act and the Consumer Product Safety Improvement Act of 2008 apply to this part. The following definitions apply for purposes of this part:

*CPSA* means the Consumer Product Safety Act.

*CPSC* means the Consumer Product Safety Commission.

*Due care* means the degree of care that a prudent and competent person engaged in the same line of business or endeavor would exercise under similar circumstances. Due care does not permit willful ignorance.

*High degree of assurance* means an evidence-based demonstration of consistent performance of a product regarding compliance based on knowledge of a product and its manufacture.

*Identical in all material respects* means there is no difference with respect to compliance to the applicable rules, bans, standards, or regulations between the samples to be tested for compliance and the finished product distributed in commerce.

*Manufacturer* means the parties responsible for certification of a consumer product pursuant to 16 CFR part 1110.

*Manufacturing process* means the techniques, fixtures, tools, materials, and personnel used to create the component parts and assemble a finished product.

## § 1107.20

*Material change* means any change in the product's design, manufacturing process, or sourcing of component parts that a manufacturer exercising due care knows, or should know, could affect the product's ability to comply with the applicable rules, bans, standards, or regulations.

*Third party conformity assessment body* means a testing laboratory whose accreditation has been accepted by the CPSC to conduct certification testing on children's products. Only third party conformity assessment bodies whose scope of accreditation includes the applicable required tests can be used for children's product certification or periodic testing purposes.

### Subpart B [Reserved]

### Subpart C—Certification of Children's Products

#### § 1107.20 General requirements.

(a) Manufacturers must submit a sufficient number of samples of a children's product, or samples that are identical in all material respects to the children's product, to a third party conformity assessment body for testing to support certification. The number of samples selected must be sufficient to provide a high degree of assurance that the tests conducted for certification purposes accurately demonstrate the ability of the children's product to meet all applicable children's product safety rules.

(b) If the manufacturing process for a children's product consistently creates finished products that are uniform in composition and quality, a manufacturer may submit fewer samples to provide a high degree of assurance that the finished product complies with the applicable children's product safety rules. If the manufacturing process for a children's product results in variability in the composition or quality of children's products, a manufacturer may need to submit more samples to provide a high degree of assurance that the finished product complies with the applicable children's product safety rules.

(c) Except where otherwise specified by a children's product safety rule, component part testing pursuant to 16

## 16 CFR Ch. II (1–12 Edition)

CFR part 1109 may be used to support the certification testing requirements of this section.

(d) If a product sample fails certification testing to the applicable children's product safety rule(s), even if other samples have passed the same certification test, the manufacturer must investigate the reasons for the failure and take the necessary steps to address the reasons for the failure. A manufacturer cannot certify the children's product until the manufacturer establishes, with a high degree of assurance that the finished product does comply with all applicable children's product safety rules.

#### § 1107.21 Periodic testing.

(a) *General requirements for all manufacturers.* All manufacturers of children's products must conduct periodic testing. All periodic testing must be conducted by a third party conformity assessment body. Periodic testing must be conducted pursuant to either paragraph (b), (c), or (d) of this section or as provided in regulations under this title. The testing interval selected for periodic testing may be based on a fixed production interval, a set number of units produced, or another method chosen by the manufacturer based on the product produced and its manufacturing process, so long as the applicable maximum testing interval specified in paragraph (b), (c), or (d) of this section is not exceeded. Component part testing pursuant to 16 CFR part 1109 may be used to support the periodic testing requirements of this section.

(b) A manufacturer must conduct periodic testing to ensure compliance with the applicable children's product safety rules at least once a year, except as otherwise provided in paragraphs (c), and (d) of this section or as provided in regulations under this title. If a manufacturer does not conduct production testing under paragraph (c) of this section, or testing by a testing laboratory under paragraph (d) of this section, the manufacturer must conduct periodic testing as follows:

(1) *Periodic Testing Plan.* Manufacturers must develop a periodic testing